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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/881,935	06/15/2001	Bhajmohan (Ricky) Singh	115808-459	8096
29157	7590	06/22/2006	EXAMINER	
BELL, BOYD & LLOYD LLC			BHAT, NINA	
P. O. BOX 1135			ART UNIT	
CHICAGO, IL 60690-1135			PAPER NUMBER	

1764

DATE MAILED: 06/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/881,935

Applicant(s)

SINGH ET AL.

Examiner

N. Bhat

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 April 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 June 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on April 19, 2006 has been entered.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. Claims 1-7 and 11-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Abene et al. [USP 6,669,975] in combination with Nadeau [USP 6,280,779] further in view of Jones et al. [USP 6,042,857].

Abene et al. teach the invention substantially as claimed. Abene et al. teach collecting information relating to certain attributes and physical conditions of a pet from a pet profile, analyzing the information from the pet profile to form a dietary health management system. [See

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Column 3, last paragraph] Mixtures of selected functional ingredients can be added to a pre-made dry kibble specifically pointed out in Column 3, line 18 and Column 4, lines 55-57] Abene et al. teach providing specific feeding instructions for the pet based on the additives and kibble which was formulated based on the pet profile information. With respect to claim 12, wherein the pet profile is inputted through an electronic interface, Abene et al. teach that the appropriate formulation for customized dry kibble production and the addition of pet food products can be determined manually from the pet profile or alternatively a software program that will convert the information into an appropriate formulation for the customized dry kibble and will determine the proper wet food, for complete diet health management has been contemplated and there has been suggested in Abene et al. to use a WINDOWS based software system that accepts manual input about the general health conditions of an animal and can be run on a desktop computer. Abene further recites coating the volume of dry kibble pieces with a mixture of functional ingredients to coat the kibble and specifically teaches coating with safflower oil, fax seed oil, vitamin E oil.[Note Example 1 and Column 32, lines 45-54] The types of pet profiling information which is to be gathered in formulating the pet food has been taught in Table 2.

However, Abene et al. does not teach obtaining a biological sample analysis fro the pet after the pet has eaten a combination of the kibble and the additive; suggesting a second premanufactured kibble and a second premanufactured additive that is based on the biological sample analysis and the individual pet profile.

Nadeau et al. specifically teaches providing a pet food composition which includes meat chunks and gravy wherein stool samples from the pet is analyzed after pet food has been eaten, and then the pet food is adjusted based on the stool sample results. Specifically, Pet Foods X, Y, and Z are prepared with ingredients as set forth in Tables I-III. Nadeau et al. teach that in a series of separate seven day feed tests, ten adult beagle dogs were feed only Pet Foods X, Y,

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and Z. The dogs were permitted 45 minutes to consume the food, the feces eliminated by each do were evaluated daily and graded based on the condition of the fecal matter as set forth in Column 6, lines 44-60. The same experiment was conducted using 5 commercial meat foods and the stools were evaluated. Nadeau et al. teach that the dog food formulations particularly the thickening agents used in the gravies can be adjusted based on the stool quality and the food can be changed to provide improved dietary health of the pet.

Jones et al. teach providing a pet food, which is microbially stable and has an increased shelf life, freshness, palatability and n nutritional value added pet food. The ingredients include high fibers such as oats, flax seed meal and psyllium to produce a diet high in soluble fiber.[Note Column 3, lines 55 to Column 4, line 29]. Jones et al. teach that the psyllium is added in order to bind the water, which renders the water unavailable for microbial growth and oxidation. Jones et al. also teach that providing a prolonged shelf life pet food and products include combinations of preservatives and/or antimyotics and to include high levels of sugars, edible organic acids and inorganic acids to maintain pH and to manipulate the amount of acid to provide a pH in the range of 2 or 3 would have been obvious to one having ordinary skill in the art. [Note Column 4, lines 63-67] The amount of edible soluble fiber is above 3% as taught by Jones et al., which is higher than what is claimed by applicant but to reduce the amount or to modify the amount of psyllium added would have been obvious to one having ordinary skill in the art because the art recognizes that the amount of soluble fiber does bind water and modify the amount based on how much water binding is required for achieving dietary health benefits has been taught by Abene et al and Nadeau et al.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a method for suggest a pet food for a pet from the combined teachings or Abene et al. who teaches specifically the concept obtaining a pet profile,

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processing the individual pet profile either manually or using a software package which correlates a premanufactured kibble which correlates with the processed pet profile and further can include additional ingredients such as additives which would be beneficial to the pet based on the individual pet profile. The concept of actually correlating the pet food after consumption with the pet's biological sample and analyzing the food and suggesting a different type of food based on the analysis has been generically taught by Nadeau et al. Jones et al. teaches applicant's specific type of fibers and additives and it is maintained that applicant's invention as a whole has been fairly taught and suggested by the prior art.

5. Claims 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Abene et al. in combination with Nadeau and Pratt.

Abene et al. in combination with Nadeau teach the invention substantially as claimed for reason delineated above.

However Abene et al. or Nadeau do not specifically teach using computer-controlled apparatus for administering pet food.

Pratt teaches a method and apparatus whereby livestock and poultry are administered feed additives in their feed ration. The apparatus includes a programmable control, which dispenses and weighs feed additives into the feed ration for poultry and livestock. [Note Figure 1 and Claims 20-27]

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a method for suggest a pet food for a pet from the combined teachings of Abene et al. who teaches specifically the concept obtaining a pet profile, processing the individual pet profile either manually or using a software package which correlates a premanufactured kibble which correlates with the processed pet profile and further can include additional ingredients such as additives which would be beneficial to the pet based

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on the individual pet profile. The concept of actually correlating the pet food after consumption with the pet's biological sample and analyzing the food and suggesting a different type of food based on the analysis has been generically taught by Nadeau et al. Pratt teaches an apparatus which is capable of customizing a pet food product for a pet which includes means for obtaining an individual pet profile and means for processing the individual pet profile (note the computer in Figure 1) and means for creating a pet food additive, means for analyzing a biological sample (in Pratt weight is measured), there are means for adding additives to feed rations. It is maintained that applicant's invention as a whole has been fairly taught and suggested by the prior art.

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Shields, Jr. et al. teach a breed specific canine food formulation. Liu et al. teaches generating growth alternatives.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to N. Bhat whose telephone number is 571-272-1397. The examiner can normally be reached on Monday-Friday, 9:30AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Caldarola can be reached on 571-272-1444. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



N. Bhat  
Primary Examiner  
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